

REMARKS

This paper is a response to the Office Action mailed May 10, 2006. Claims 1 to 20 are pending. Claim 21 has been added. Accordingly, upon entry of the response claims 1 to 21 are under consideration.

Regarding the Amendments

The claim amendments are supported throughout the specification or were made to address various informalities. In particular, the amendment to claim 1 to recite “applying cosmetic products” was made in order to more clearly define the claimed subject matter for reasons unrelated to patentability and is supported, for example, at page 18, line 35, to page 19, line 3; at page 20, lines 25-32. The amendment to recite “local” was made in order to provide additional antecedent basis for the “characteristics” of claim 1. The amendment to claims 6 and 16 address the rejection under 35 U.S.C. §112, second paragraph for antecedent basis of “relief” and therefore, was made to address an informality. Dependent claims 4 to 6, 8 to 15 and 17 to 20 have been amended to remove multiple claim dependencies. Thus, as the claim amendments are supported by the specification or were made to address informalities, no new matter has been added and entry thereof is respectfully requested.

Regarding the New Claim

New claim 21 is supported, for example, by originally filed claim 1, at page 2, lines 7-11 and at page 18, lines 35-37. Thus, as claim 21 is supported by the specification, no new matter has been added and entry thereof is respectfully requested.

Regarding the Information Disclosure Statement

Submitted herewith are PTO Form 1449 and a copy of FR 2,728,982 that includes an English language abstract. Applicants respectfully request consideration of FR 2,728,982 and that the Examiner return an initialed copy of PTO Form 1449 to the undersigned.

I. REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

The rejection of claims 2, 6 and 16 under 35 U.S.C. §112, second paragraph, as allegedly indefinite is respectfully traversed. The grounds for rejection are set forth in the Office Action, page 2.

Claims 2, 6 and 16 are clear and definite as written. Nevertheless, solely in order to further prosecution of the application, the claims have been amended as set forth above. The rejection will therefore be addressed as it may relate to the amended claims.

Claim 2 has been amended to recite “local” prior to the term “characteristics.” In view of the amendment, adequate antecedent basis for the characteristics of claim 1 is provided. In terms of claims 6 and 16, these claims have been amended to recite “a relief” instead of “the relief.” Accordingly, the rejection for not setting forth antecedent basis for “relief” is moot. Applicants note that the ordinary meaning of “relief” is the projection of forms or figures from a flat background. In view of the amendments, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

II. REJECTIONS UNDER 35 U.S.C. §§102 and 103(a)

The rejection of claims 1 to 3, 5 to 12 and 15 to 20 under 35 U.S.C. §102(e) as allegedly anticipated by Syrowicz (U.S. Patent Publication No. 2003/0060810 A1) is respectfully traversed. The grounds for rejection are set forth in the Office Action, pages 3-4.

Syrowicz describe treating an undesired presence or abnormality on an individual. Syrowicz employ a laser primarily, also mentioning a tweezer, electrotweezer, device to electrocute the undesired presence or a device which pours a chemical substance on the undesired presence to treat the undesired presence or abnormality (see, for example, [0007], [0014], [0020], [0021], [0023], [0024], [0025], [0026], [0027], [0028], [0029], [0030] and [0031]). In particular, Syrowicz describe using the laser to remove hair ([0018], [0023] and [0025]). However, Syrowicz fail to teach or suggest any method for applying cosmetic products. For example, the terms “cosmetic” and “makeup” are entirely absent from Syrowicz. Consequently, it cannot objectively be said that Syrowicz teaches any method for applying cosmetic products, let alone the claimed methods.

Thus, as Syrowicz fail to teach each and every element of claims 1 to 21, the claims are not anticipated by Syrowicz (U.S. Patent Publication No. 2003/0060810 A1). As such, the rejection under 35 U.S.C. §102(e) is improper and must be withdrawn.

The rejection of claims 4, 13 and 14 as allegedly unpatentable under 35 U.S.C. §103(a) over Syrowicz (U.S. Patent Publication No. 2003/0060810 A1) in view of Lehmann et al. (U.S. Patent No. 6,575,751) is respectfully traversed. The grounds for rejection are set forth in the Office Action, pages 5-6.

As discussed, Syrowicz describe treating an undesired presence or abnormality with a laser primarily, while mentioning a tweezer, electrotweezer, device to electrocute the undesired presence or a device which pours a chemical substance on the undesired presence to treat the undesired presence or abnormality (see, for example, [0007], [0014], [0020], [0021], [0023], [0024], [0025], [0026], [0027], [0028], [0029], [0030] and [0031]). However, Syrowicz fail to teach or suggest any method for applying cosmetic products. In fact, the terms “cosmetic” and “makeup” are absent from Syrowicz.

Lehmann et al. fail to provide that which is missing from Syrowicz. In particular, Lehmann et al. fail to teach or suggest any method for applying cosmetic products. The terms “makeup” is absent from Lehmann et al. and the term “cosmetic” is used once in reference to a replacement tooth or crown designed to precisely match the tooth that is to be replaced (see Technical Field, column 1). Consequently, it cannot objectively be said that Lehmann et al. teaches any method for applying cosmetic products, let alone the claimed methods.

Thus, as Syrowicz and Lehmann et al. alone and in combination fail to teach each and every element of claims 4, 13 and 14, the claims would not have been obvious in view of either of Syrowicz and Lehmann et al. alone and in combination. As such, the rejection under 35 U.S.C. §103(a) is improper and must be withdrawn.

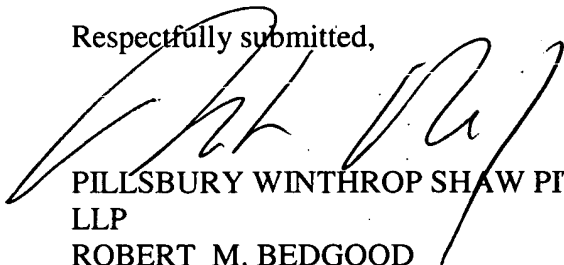
CONCLUSION

In summary, for the reasons set forth herein, Applicants maintain that claims 1 to 21 clearly and patentably define the invention, respectfully request that the Examiner reconsider the various grounds set forth in the Office Action, and respectfully request the allowance of the claims which are now pending.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (858) 509-4065.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,



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CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10*

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